

AMENDED IN SENATE JULY 23, 2009

AMENDED IN SENATE JUNE 29, 2009

AMENDED IN ASSEMBLY JUNE 1, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 1079

Introduced by Assembly Member V. Manuel Perez
(Coauthors: Assembly Members Blumenfield, Chesbro, and
Portantino Portantino, and Salas)
(Coauthor: Senator Ducheny)

February 27, 2009

An act to add Section 71103.5 to the Public Resources Code, relating to the environment.

LEGISLATIVE COUNSEL'S DIGEST

AB 1079, as amended, V. Manuel Perez. Environment: California-Mexico border.

Existing law creates the California Border Environmental and Public Health Protection Fund. The money in that fund is available, upon appropriation, to the Secretary for Environmental Protection to assist local governments in implementation of projects to identify and resolve environmental and public health problems that directly threaten the health or environmental quality of California residents or sensitive natural resources of the California border region, to provide technical assistance, to provide funds for equipment and labor costs associated with emergency abatement of environmental and public health problems imposed on residents of California due to cross-border impacts of pollutants originating from Baja California, and to provide analytical and scientific equipment and services needed by border area public

agencies to identify and monitor the sources of environmental and public health threats posed by the cross-border transmission of environmental pollutants and toxics.

This bill would require the California-Mexico Border Relations Council to develop a strategic plan containing specific elements to guide the implementation of the New River Improvement Project. *The bill would authorize the council to appoint, convene, and oversee a technical advisory committee that would advise the council regarding the necessary studies and activities to carry out the project.* The bill would create the New River Improvement Project Account in the fund and moneys in the account, upon appropriation by the Legislature, would be expended for activities related to the New River.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 71103.5 is added to the Public Resources
- 2 Code, to read:
- 3 71103.5. (a) The Legislature finds and declares all of the
- 4 following:
- 5 (1) The New River poses an imminent and severe threat to the
- 6 public health of residents of Calexico, California and adjacent
- 7 communities in Imperial County. Since the 1940s, the New River
- 8 has been recognized as a significant pollution and human health
- 9 problem, primarily because of extremely high concentrations of
- 10 fecal coliform bacteria. ~~The waterway's pathogens include~~
- 11 ~~pathogens that cause tuberculosis, encephalitis, polio, cholera,~~
- 12 ~~hepatitis, and typhoid; levels for many of these contaminants are~~
- 13 ~~in violation of federal, state, and Mexican standards by several~~
- 14 ~~hundredfold.~~
- 15 (2) *While there have been recent measurable water quality*
- 16 *improvements as a result of sewage infrastructure projects*
- 17 *implemented and completed during the last 10 years in Mexicali,*
- 18 *Mexico, the residual and projected pollution in the New River*
- 19 *coming from Mexico remains a significant threat to public health*
- 20 *and the environment.*
- 21 (3) *Current bacteria levels in the New River are several orders*
- 22 *of magnitude above the state standards for bacteria. Based on*
- 23 *these levels and the historic levels of pollution, the waterway is*

1 *believed to carry pathogens that cause tuberculosis, encephalitis,*
2 *polio, cholera, hepatitis, and typhoid. The waterway also carries*
3 *other contaminants in concentrations that are in violation of*
4 *federal, state, and Mexican water quality standards by several*
5 *hundredfold.*

6 ~~(2)~~

7 (4) The New River is listed as an impaired river by the United
8 States Environmental Protection Agency due to low dissolved
9 oxygen (DO) and the presence of chlordane, chlorpyrifos, copper,
10 dichloro-diphenyl-trichloroethane (DDT), diazinon, dieldrin,
11 mercury, nutrients, pathogens, polychlorinated biphenyls (PCBs),
12 sediment, selenium, toxaphene, toxicity, trash, and volatile organic
13 compounds (VOCs).

14 ~~(3)~~

15 (5) The New River is a major contributor of pollution to the
16 Salton Sea, and failure to address water quality problems in the
17 New River are impeding the ability of the state to implement laws
18 and programs designed to restore and protect this important
19 environmental and wildlife habitat resource.

20 ~~(4) The New River and its associated river channel should be~~
21 ~~restored and enhanced to a condition where the residents of~~
22 ~~Calexico and Imperial County can utilize the river as a recreational~~
23 ~~and natural asset as contemplated in the California River Parkways~~
24 ~~Act of 2004 (Chapter 3.8 (commencing with Section 5750) of~~
25 ~~Division 5).~~

26 (6) *The New River condition in the border area is also an*
27 *aesthetic nuisance for Calexico residents and has historically*
28 *inhibited the city's socioeconomic well-being and growth.*

29 (7) *A coordinated and comprehensive state strategy is needed*
30 *to deal with the residual and projected pollution so that the New*
31 *River and associated river channel can be enhanced to a condition*
32 *that will allow the residents of Calexico and Imperial County to*
33 *utilize them as recreational and natural assets as contemplated in*
34 *the California River Parkways Act of 2004 (Chapter 3.8*
35 *(commencing with Section 5750) of Division 5).*

36 (b) As used in this section, the following terms have the
37 following meanings:

38 (1) "Agency" means the California Environmental Protection
39 Agency.

1 ~~(2) “Boards” means the State Water Resources Control Board~~
2 ~~and the Colorado River Basin Regional Water Quality Control~~
3 ~~Board.~~

4 ~~(3)~~

5 (2) “City” means the City of Calexico, California.

6 ~~(4)~~

7 (3) “Council” means the California-Mexico Border Relations
8 Council established pursuant to Section 8711 of the Government
9 Code.

10 ~~(5)~~

11 (4) “County” means the County of Imperial, California.

12 ~~(6)~~

13 (5) “IBWC” means the International Boundary and Water
14 Commission, United States Section.

15 ~~(7)~~

16 (6) “New River Improvement Project” or “project” means a
17 project to study, monitor, remediate, ~~restore, and enhance the~~
18 ~~waters and channel of New River in the County of Imperial to~~
19 ~~protect both human health and the natural environment for public~~
20 ~~use and enjoyment. and enhance New River water quality in the~~
21 ~~County of Imperial to protect human health, and develop a river~~
22 ~~parkway suitable for public use and enjoyment.~~

23 (c) Pursuant to the authority granted to the council under Section
24 8712 of the Government Code, the council shall develop a strategic
25 plan to guide the implementation of the New River Improvement
26 Project. The strategic plan shall include, but *need* not be limited
27 to, all of the following elements:

28 ~~(1) Identify potential funds for the implementation of the project,~~
29 ~~and potential lead agencies that would be responsible for~~
30 ~~environmental review of activities related to the cleanup and~~
31 ~~restoration of the New River.~~

32 ~~(2) Identify the appropriate federal, state, and local agencies~~
33 ~~with a role in implementing and achieving the New River~~
34 ~~Improvement Project.~~

35 ~~(3) A prioritization of the actions necessary to protect public~~
36 ~~health and to meet New River water quality objectives and other~~
37 ~~environmental goals, such as improving the quality of water flows~~
38 ~~into the Salton Sea.~~

39 (1) *Quantification of current and projected New River water*
40 ~~quality impairments and their threat to public health.~~

1 (2) *Prioritization of the actions necessary to protect public*
2 *health and to meet New River water quality objectives and other*
3 *environmental goals, such as improving the quality of water flows*
4 *into the Salton Sea.*

5 (3) *Identification of potential funds for the implementation of*
6 *the project, and potential lead agencies that would be responsible*
7 *for environmental review of activities related to the cleanup and*
8 *restoration of the New River.*

9 (4) *Identification of the appropriate federal, state, and local*
10 *agencies with a role in implementing and achieving the New River*
11 *Improvement Project.*

12 (d) (1) *To the extent permitted by law, the council may work*
13 *with appropriate binational, federal, state, local, and*
14 *nongovernmental organizations on both sides of the*
15 *California-Mexico border to develop the strategic plan and to fund*
16 *and establish cooperative water quality monitoring, public health*
17 *studies, inspection, and technical assistance programs as needed*
18 *to support and implement the project. to support, convene, and*
19 *oversee the project.*

20 (2) *To further the objectives of this subdivision, the council may*
21 *convene and oversee a technical advisory committee. The advisory*
22 *committee shall advise the council regarding the necessary studies*
23 *and activities to carry out the project, and shall serve at the*
24 *pleasure of the council. The advisory committee shall include*
25 *representatives from the following:*

26 (A) *Impacted cities and counties.*

27 (B) *Relevant local, regional, and state agencies and*
28 *departments.*

29 (C) *Nongovernmental organizations.*

30 (D) *Other stakeholders deemed necessary by the council.*

31 (3) *The council shall appoint the chair of the committee and*
32 *may expand the membership and expertise of the committee as it*
33 *deems necessary.*

34 (e) *The New River Improvement Project Account is hereby*
35 *created in the California Border Environmental and Public Health*
36 *Protection Fund to receive moneys for activities related to the New*
37 *River Improvement Project from sources identified in Section*
38 *71101 and other sources. Upon appropriation by the Legislature,*
39 *moneys in the account shall be expended to implement the purposes*

- 1 of this section and for purposes identified in Section 71102 that
- 2 are related to the New River.

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